Equality and Human Rights Commission

# Minutes of the 98th meeting of the Board of the EHRC

**20 October 2021 (10:00-12:30)**
**Virtual meeting via Webex**

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## Attending

**Commissioners**

Baroness Kishwer Falkner (Chairwoman); Caroline Waters (Deputy Chair); Suzanne Baxter; Jessica Butcher; Pavita Cooper (Items 1 to 12) David Goodhart; Susan Johnson; Helen Mahy; Alasdair Henderson (Item 11 to 14), Mark McLane, Lord Bernard Ribeiro; Dr Lesley Sawers; and Su-Mei Thompson.

**Officers**

Marcial Boo, Chief Executive Officer
Ben Coates, Chief of Staff
Melanie Field, Chief Strategy and Policy Officer
Callum MacInnes, Principal – Planning, Performance and Governance
Bill Malloy, Director of Finance, Procurement, Planning, Performance & Governance
Graham Wheaton, Senior Associate – Planning, Performance and Governance

**Guests**

Martyn Jones, Interim Chair - EHRC Wales Committee
Charles Ramsden – Government Equalities Office (GEO)

**Observer**

Megan Cruickshank, Senior Associate - Planning, Performance and Governance

## Minutes

### 1. Chairwoman's introduction

1.1 The Chairwoman welcomed attendees. Martyn Jones continued to attend as Interim Chair of the Commission's Wales Committee, pending the appointment of a Wales Commissioner.

### 2. Apologies for absence

2.1 Apologies were received from Cath Denholm.

### 3. Declarations of interest

3.1 The Chairwoman declared a new conflict of interest. A family member had accepted a role at the headquarters of a political party on 01 October. This would require the Chairwoman to recuse herself, as appropriate, from discussions, meetings and decisions related to that party.

3.2 No other new declarations were made.

### 4. Minutes and correspondence

4.1 The Board approved the minutes of the 15 September, 97th Board meeting, as an accurate record.

### 5. Actions arising

5.1 The Board reviewed the Actions Log.

5.2 In relation to action 98.01/4.4 – Press Summaries; these would be provided to all members by email from the following week.

5.3 On action 98.01/7.1 – National Human Rights Institution (NHRI) Accreditation; amendments to the Terms of Reference for the Commissioner Working Group on Human Rights Monitoring had been made and would come to the Board for approval.

5.4 The Chairwoman updated the Board on delays to the Commissioner recruitment process. Interviews were planned on 8/9 November, and she would write to the Cabinet Office regarding the process. **ACTION: Chief of Staff to coordinate this correspondence.**

5.5 The interim Wales Committee Chair noted that the Welsh Government had been advised that the appointment of a Wales Commissioner was imminent. **ACTION: Chief Executive Officer to write to Jane Hutt AM to make her aware of the delay to the Wales Commissioner appointment process.**

5.6 The Chief Strategy and Policy Officer advised the Board that we had responded to a letter questioning the Commission's decision not to publish guidance relating to transgender pupils, reiterating the basis for the decision and informing them that there were no plans to revisit it.

## 6. Update from P&WC

6.1 The Chair of the People and Workspace Committee updated the Board on the most recent meeting, which had reviewed: the Commission's plans for hybrid working; Places for Growth and the implications for the Commission's office in London; and Commission's senior structure. The next meeting, in November, would focus on the Transformation Programme.

## 7. Other Committee and CWG updates

7.1 The Chair of the Commissioner Working Group on Human Rights Monitoring (CWG HRM) advised there had been a meeting of the group in the last week at which the Commission's re-accreditation plan on being a National Human Rights Institution had been submitted for review. This would be bought to the Board at a later date.

7.2 Having reviewed the Human Rights tracker, the Working Group had interrogated the areas of regression identified. The Group considered the conclusions to be justified. But it was important that the context, including the impact of the pandemic, should be appropriately communicated when this was made public. Board members would be briefed on what Human Rights reports are monitored and due for publication. ACTION: Board secretariat to provide an update on Human Rights reports for publication at the November Board meeting.

7.3 The Scotland Committee Chair advised of work with stakeholders in Scotland on artificial intelligence, on fairness at work and on young people. Meetings were being sought with the First Minister to take place after COP26.

7.4 The interim Chair of the Wales Committee informed the Board of a recent meeting with Jane Hutt AM and an invitation to the Royal opening of the Senedd. This demonstrated the esteem in which the Commission is held in Wales, and highlighted the importance of the appointment of a Wales Commissioner.

## 8. Audit and Risk Assurance Committee update

8.1 The Board noted the high level of assurance on information governance provided by the interim Data Protection Officer at its meeting on 7 October.

8.2 Concerns had been expressed at the risk of an underspend at year end, at the rate of staff attrition and at the relatively few current number of legal cases. Plans were in place to address these issues.

8.3 The Board noted that the Commission's approach to risk management would undergo a reset to align with the new Strategic Plan. Meetings were arranged between the incoming ARAC Chair and the Chief Executive to discuss this.

8.4 There was concern that the level of interest in the Internal Audit tender had been less than anticipated. There was currently high demand in the market and the Commission's contract was small. The requirement to have circulation of auditors had an impact too. One option would be to contract the Government Internal Audit Agency, although it might be more prudent to consider a commercial audit firm if there is a conflict with the Commission's independence. **ACTION: Director of Finance, Procurement, Planning, Performance and Governance to review how to secure the necessary internal audit services.**

## 9. Finance report

9.1 The Director of Finance, Procurement, Planning, Performance and Governance noted that the information in his report was correct at the end of September and that by the end of October, the projected year-end underspend had reduced by approximately £200k. Staff attrition, fewer incoming pieces of legal work and increased income from legal cases were the key factors in the underspend. Plans were in place to increase expenditure by recruiting additional temporary staff, particularly into our legal team to take on race discrimination cases, as well as by training staff, running some team away days, and investing in our London and Cardiff offices.

9.2 With the agreement of the Cabinet Office, there was potential to convert some revenue to capital expenditure to assist with technology investment.

## 10. Risk Report

10.1 Board members commented on specific risks, including on staff attrition rates, on the need for a clearer articulation of reputational risks to the Commission, and on making the risks less general and more specific. These would be incorporated into future versions of the risk register.

10.2 There remained concern about the need for stronger media management. This too would be reflected in the risk register.

## 11. CEO Report

11.1 The Chief Executive advised that future reports would cover the Commission's Regulation, Policy and Corporate work.

11.2 The Board welcomed the report and its new format. There was discussion about how the Commission could work effectively, within its remit, on the UK government's agenda to 'level up' disadvantaged parts of the country. The

Board also discussed the Commission's Transformation Programme and welcomed the way it was being streamlined and resourced.

11.3 The Board approved signing a lease for a temporary office in Cardiff.

11.4 The Chair's letter to The Times on the treatment of Professor Kathleen Stock was welcomed. The Board were pleased to note that a response from the University had been received, though the university did not require any support from the Commission, and simply asked for permission to share our letter with other interested parties.

**12. Performance report**

12.1 The Director of Finance, Procurement, Planning, Performance and Governance introduced the report and advised that further improvements to the format of the report were in hand.

12.2 The Board were pleased to note that 92 percent of activities were on track, with delays to some work in Wales due to staffing shortages. The inquiry into low-paid ethnic minority workers in health and social care was likely to be published in December, subject to Board agreement.

12.3 Board members raised some specific queries, including on the likely year-end costs of our litigation work, on comparisons between the Commission's staff departures and those of other organisations, and on the numbers of temporary staff or consultants at the Commission. The Board was pleased that there would shortly be a targeted opportunity to listen to views from staff on a range of issues, including through the annual staff survey.

12.4 The Chair asked how much work the Commission did for Select Committees. **ACTION: Director Finance, Procurement, Planning, Performance and Governance to review and report back.**

12.5 Board members requested details of success measures for communications and stakeholder engagement, potentially including speed of response to breaking news and the take up of our public surveys. **ACTION: Chief Operating Officer to report back to the Board following the review of the communications function.**

**13. Board Governance processes**

13.1 The Chief of Staff introduced his paper. The Board welcomed the focus on good governance and asked that additional time for Committee reports be allowed at future Board meetings, and that the list of Committee membership should be updated to include a new Board member on the Commissioner working group on Is Britain Fairer, and to specify the detailed roles of the Scotland and Wales Committees. **ACTION: Chief of Staff to update the annex to reflect the points raised.**

13.2 The Board also asked that the most recent minutes from Committees should come to the Board and be discussed, and not just on an exceptional basis. The Board should also review key risks bi-annually and that, between these discussions, Committee Chairs should bring any key risks or concerns to the Board. There should also be scope for the Board to meet outside the normal meeting cycle if urgent issues arise.

13.3 The Chair asked that Committee minutes are shared with the Board promptly after meetings. **ACTION: Principal Planning, Performance and Governance to implement.**

13.4 The Chair also determined that there should be a six-month review on the processes detailed in this paper. **ACTION: Board secretary to add for discussion in April 2022.**

**14. Any other business**

14.1 The Chair encouraged Board members to attend a presentation by ‘More in Common’ that was being arranged by Officers.

14.2 In response to a question, Board members were assured that litigation issues on racial bias and facial recognition technology were areas of focus in the new Strategic Plan.

14.3 With no further business, the Chair advised members that the 99th Board meeting would take place over two days, 23 November 2021, which would be virtual, and 1 December 2021, which would be in person.